

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
v.)	
)	Civ. No. 04-11136-GAO
DIRECT MARKETING CONCEPTS, INC., et al.,)	
)	
Defendants.)	
)	

**PLAINTIFF FEDERAL TRADE COMMISSION'S MOTION TO STRIKE AFFIDAVITS
SUBMITTED BY DEFENDANTS IN SUPPORT OF THEIR OPPOSITIONS TO
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Federal Trade Commission (“Commission”) respectfully submits its Motion to Strike Affidavits Submitted by Defendants in Support of Their Oppositions to Plaintiff’s Motion for Summary Judgment. As set forth in the accompanying Memorandum, the Affidavits of Andrew Aldrich (Docket No. 145) and Jason Bernabei (Docket No. 146) and substantial portions of the Supplemental Affidavit of Donald Barrett (Docket No. 142) and the Affidavits of Wayne Callahan (Docket No. 143), Simon Mena (Docket No. 144), Eileen Barrett Maihos (Docket No. 149), and Allen Stern (Docket No. 152) are inadmissible due to their noncompliance with Federal Rule of Civil Procedure 56(e) and the Federal Rules of Evidence. Accordingly, the Court should strike the noncompliant affidavit testimony.

A Proposed Order that strikes the noncompliant affidavit testimony is submitted herewith.

/s/ Edward Glennon

HEATHER HIPPSLEY
KIAL S. YOUNG (BBO # 633515)
EDWARD GLENNON
SHIRA D. MODELL
Federal Trade Commission
600 Pennsylvania Avenue, NW; Suite NJ-3212
Washington, DC 20580
(202) 326-3285, -3126, -3116 (voice); (202) 326-3259 (fax)
eglennon@ftc.gov
ATTORNEYS FOR PLAINTIFF

DATE: March 3, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 3, 2006.

/s/ Edward Glennon
Edward Glennon